Interstate Commission for Juveniles	Opinion Number: 01-2024	Page Number: 1

ICJ Advisory Opinion
Issued by:
Executive Director: MaryLee Underwood
Chief Legal Counsel: Richard L. Masters

Dated:
August 22, 2024

Description:

ICJ Requirements when Juveniles have Pending Charges in Two or More States

Withdrawn:
January 23, 2025

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Background:

Pursuant to Commission Rule 9-101(3), the District of Columbia (DC) has requested assistance to educate members of the judiciary regarding the requirements of the Interstate Compact for Juveniles in cases where juveniles have pending charges in two or more states.

Issues:

In the District of Columbia (DC), courts routinely release accused delinquents to the community while they await resolution of pending charges filed in their jurisdiction (DC). In keeping with this practice, DC courts have repeatedly released juveniles into the community when they have pending charges in DC and active warrants in other states. These releases are clearly inconsistent with the requirements of the Compact and the ICJ Rules.

This advisory opinion addresses several issues that arise in cases where 1) a juvenile has pending charges in both the holding and demanding states, and 2) the demanding state does not consent to the juvenile being returned prior to resolution of pending charges in the holding state, including:

a. May the holding state court release the juvenile while pending resolution of the holding state's charges?

b. May the holding state court consider the arrest warrant from the demanding state quashed?

c. Should the holding state conduct a "Form III hearing," to determine whether the juvenile will voluntarily return, before or after charges in the holding state are resolved?

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Applicable Compact Provisions and Rules:

Article I of the Compact, in relevant parts, states:

> "It is the purpose of this compact, through means of joint and cooperative action among the compacting states to: . . . (C) return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return. . ."

Relevant provisions of the ICJ Rules include:

ICJ Rule 6-102(2), which provides: "Probation/parole absconders, escapees or accused delinquents who have an active warrant shall be detained in secure facilities until returned by the home/demanding state."

ICJ Rule 7-103, which provides: "Juveniles shall be returned only after charges are resolved when pending charges exist in the holding/receiving states unless consent is given by the holding/receiving and demanding/sending states' courts and ICJ Offices."

ICJ Rule 7-104(2), which provides: "Holding states shall honor all lawful warrants as entered by other states…"

ICJ Rule 7-104(4), which provides: "When a juvenile is in custody pursuant to a warrant issued by a juvenile court, the holding state shall not release the juvenile in custody on bond."

History

Concerns regarding this practice have previously come to the attention of the ICJ National Office, which advised DC's ICJ Office that such releases are inconsistent with the requirements of the ICJ Rules. Nonetheless, several similar releases have been made. Furthermore, DC courts appear to

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believe demanding states are obligated to consent to juveniles being returned prior to resolution of holding state charges if the holding state advises that the juvenile is available.

For example, in an Order to Respond issued in Case No. 204 DEL 000563, the court stated:

> Simply put, the parties should address whether Maryland was made aware that the Respondent was available to be picked up, why Maryland declined to retrieve the Respondent, whether Maryland's declination should be deemed a change of position which renders the writ of attachment null (or the arrest warrant quashed) and whether OAG's Application for the Return of Juvenile to the Requesting State filed May 14, 2024 in 2024 ISC 25 seeking a court order for the Respondent to be returned— which was granted—while simultaneously asking for Respondent's release in the DEL matter, requires OAG to forgo its prosecution (at least temporarily) in lieu of Maryland's timely request.

Analysis and Conclusions:

One of the quintessential purposes of the ICJ is to provide an alternative to extradition of juveniles to states in which charges are pending. Since the ICJ has been adopted by all 50 states, the US Virgin Islands, and the District of Columbia, this alternative "return" process has been codified throughout the United States. *See* INTERSTATE COMPACT FOR JUVENILES, art. I(C) (2008). *See also* Advisory Opinion 02-2018 and *ICJ Bench Book for Judges and Court Personnel*, Section 1.4.

As a preliminary matter, it is essential to understand that secure detention of accused delinquents is required by the ICJ. ICJ Rule 6-102(2), which applies to voluntary returns of accused delinquents, states: "Probation/parole absconders, escapees or accused delinquents who have an active warrant shall be detained in secure facilities until returned by the home/demanding state." Therefore, when a juvenile taken into custody has an active warrant from another state, the holding state has a duty to detain the juvenile until they are returned by the demanding state.

Holding State Court May Not Release Accused Delinquents with Pending Charges

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In the context of this opinion, it is important to note that the application of the provisions of the ICJ and its authorized rules to the return of juveniles is respectful of the sovereignty of each member jurisdiction. Thus, where there are pending charges in the holding/receiving state, ICJ Rule 7-103 prohibits the return of the juvenile until "after charges are resolved," or "consent is given" by the courts and ICJ Offices in both states. The policy behind this position is primarily to preserve the sovereignty of both states.

The U.S. Supreme Court has held that when interpreting statutes, "[O]ur inquiry must cease if the statutory language is unambiguous and the statutory scheme is coherent and consistent." *Robinson v. Shell Oil Co.,* 519 U.S. 337, 340 (1997) (internal quotation marks omitted). Thus, based upon the above ICJ Rule it is clear that pending charges must be resolved in the holding/receiving state or dual-consent must be given in order to return the juvenile under ICJ Rule 7-103. Further, once the charges are resolved, the order to return the juvenile must be signed and entered into the UNITY national data system.

Accordingly, the return or retaking of a juvenile subject to the ICJ cannot be accomplished (in the context of the case giving rise to this opinion) without the agreement of the demanding state's officials or until the charges are resolved, which may include completion of the sentence in the holding/receiving state.

Demanding State Warrant is Not Quashed and Must be Honored by Holding State

DC also expressed concerns about the validity of the demanding state's warrant or a "Form III hearing" to determine whether the juvenile may be voluntarily returned. Because DC has enacted the ICJ and is subject to its provisions as well as the ICJ Rules, the above analysis provides clear authority and in fact prevents the return of this juvenile except as provided under the foregoing provisions of ICJ Rule 7-103.

Specifically, DC asked, "May the holding state consider the arrest warrant from the demanding state quashed?" Because the ICJ is an interstate compact, its provisions and applicable ICJ Rules

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govern Compacting States' responses to warrants issued by other Compacting States and supersede any conflicting provisions of state law.[1] ICJ Rule 7-104(2) clearly provides: "Holding states shall honor all lawful warrants as entered by other states…" In addition, ICJ Rule 7-104(4) governs the enforcement of lawful warrants entered by other Compacting States and requires that "the holding state shall not release the juvenile in custody on bond." Furthermore, ICJ Rule 7-103 governs the timing of the return when there are charges pending in the holding state. These rules clearly establish that the holding state must honor the warrant and detain the juvenile until charges in the holding state are resolved or authorities in both states agree for the juvenile to be returned prior to the resolution of charges. Therefore, the holding state may not consider the arrest warrant quashed based on the demanding state's choice not to agree to return the juvenile until after the holding state's pending charges are resolved.

"Form III Hearings" Should be Conducted After Charges are Resolved in the Holding State

DC also asked whether a "Form III hearing" should be held, to determine whether the juvenile will voluntarily return, before or after charges in the holding state are resolved. This question is superseded by ICJ Rule 7-103, which clearly requires that, if pending charges have not been resolved in the holding state, the juvenile can only be returned with the consent of both the "holding/receiving and demanding/sending states' courts and ICJ Offices." This effectively tolls the running of the time within which a return must be made. Therefore, regardless of when the "Form III hearing" is held, timelines related to returns are tolled until either holding state charges are resolved or both states agreed to have the youth returned despite pending charges in the holding state. Additionally, the youth's signature of the Form III generally serves as a signal to the demanding state that travel arrangements should be made for the youth's return. Thus, "Form III hearings" should be conducted after charges have been resolved or both states have consented.

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[1] *See* U.S. Const. art. I, § 10, cl. 1 ("No state shall pass any bill of attainder, ex post facto law or law impairing the obligation of contracts …"); *see also West Virginia ex rel. Dyer v. Sims, 341 U.S. 22, 33 (195)*; *Hinderlider v. La Plata River & Cherry Creek Ditch Co.*, 101 Colo. 73 (1937), *rev'd* 304 U.S. 92 (1938).Once entered, the terms of the compact as well as any rules and regulations authorized by the compact supersede substantive state laws that may be in conflict. *See West Virginia ex rel. Dyer, supra at 29.* This applies to prior law (*See Hinderlider*, *infra*, 304 U.S. at 106) and subsequent statutes of the signatory states. *See Green v. Biddle*, 21 U.S. (8 Wheat.) 1, 92 (1823).

Interstate Commission for Juveniles	Opinion Number: 01-2024	Page Number: 6
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Binding Effect of the ICJ and ICJ Rules

By entering into the ICJ, Compacting States contractually agree on certain principles and rules. Furthermore, all courts and other state officials are required to effectuate the terms of the Compact. *In Re Stacy B., 190 Misc.2d 713, 741 N.Y.S.2d 644 (N.Y. Fam.Ct. 2002)* ("The clear import of the language of the Compact is that the state signatories to the compact have agreed as a matter of policy to abide by the orders of member states . . . and to cooperate in the implementation of the return of runaway juveniles to such states.") Once entered, the terms of the compact as well as any rules and regulations authorized by the compact supersede substantive state laws that may be in conflict. *See West Virginia ex rel. Dyer, supra at 29.* This applies to prior law (*See Hinderlider*, *infra*, 304 U.S. at 106) and subsequent statutes of the signatory states. *See Green v. Biddle*, 21 U.S. (8 Wheat.) 1, 92 (1823). It is well settled that as a congressionally approved interstate compact, the provisions of the ICJ and its duly authorized rules enjoy the status of federal law. *See Cuyler v. Adams*, 449 U.S. 433, 440 (1981); *Carchman v. Nash*, 473 U.S. 716, 719 (1985) ("The agreement is a congressionally sanctioned interstate compact within the Compact Clause and thus is a federal law subject to federal constructions." (Citation omitted)); *see also Alabama v. Bozeman*, 533 U.S. 146 (2001) and *Reed v. Farley*, 512 U.S. 339 (1994); *and Doe v. Pennsylvania Board of Probation & Parole,* 513 F.3rd 95, 103 (3rd Cir. 2008). *See* ICJ White Paper: Why Your State Can be Sanctioned for Violating the Compact (Sept. 2012).

Summary:

Based upon the above provisions of the ICJ Rules and legal analysis, the holding state has a duty to honor the warrant of the demanding state and may not release the juvenile from custody. Furthermore, where there are pending charges in the holding/receiving state, ICJ Rule 7-103 prohibits the return of the juvenile until "after charges are resolved" or "consent is given" by the demanding state's court and ICJ Office. Moreover, Compacting States have a duty to coordinate the operation of the ICJ, and therefore should conduct "Form III hearings" after charges have been resolved, or both States have consented to the return of the juvenile prior to resolution of charges in the holding state.